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### ОКРЕМІ АСПЕКТИ РЕФОРМУВАННЯ ДЕРЖАВНОЇ СЛУЖБИ

**Анотація.** Дослідження проблеми реформування державної служби в Україні у сучасних умовах розвитку українського суспільства та держави є вкрай актуальною темою та потребує відповідного наукового опрацювання. Автор поставив за мету проаналізувати найбільш резонансні реформаторські заходи у сфері державної служби, які започатковані нещодавно державною владою і отримали неоднозначну оцінку суспільства, зокрема, анонсоване скорочення штату державних службовців та введення контрактної форми державної служби, а також запропонувати науково-обґрунтовані пропозиції із вдосконалення відповідних заходів. У роботі із застосуванням загальнонаукових і спеціальних методів наукового пізнання (діалектичного, формально-логічного, порівняльно-правового, системного аналізу) розглянуто правові засади та наукові джерела щодо скорочення штату працівників та контрактної форми прийняття на роботу; порівняно норми національного законодавства про працю з нормами національного законодавства про державну службу, які передбачають правила скорочення штату найманих працівників та державних службовців, а також гарантії їх прав при звільненні за відповідною підставою; досліджено норми національного законодавства щодо правил застосування контрактів при призначенні на посаду державних службовців. Зроблено висновок: 1) про необхідність відповідного доопрацювання Закону України «Про державну службу»; 2) про доцільність створення нових продуктивних робочих місць у різних секторах національної економіки, куди після перепідготовки будуть спрямовуватися державні службовці, яких буде скорочено; 3) про те, що будь-які реформи життєдіяльності суспільства та державного управління необхідно проводити після ґрунтовного вивчення суспільної думки, аналізу можливих негативних наслідків, розробки та запровадження компенсаторних механізмів. Наголошується, що обов'язковим є залучення до процесу розробки реформ у сфері державної служби вчених, експертів-практиків, роботодавців та представників громадських, зокрема профспілкових організацій.

**Ключові слова:** державна служба, трудові права, штат, контракт, посада.

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## **CERTAIN ASPECTS OF STATE SERVICE REFORM**

**Abstract.** *The study of the issues of civil service reform in Ukraine in the current conditions of development of Ukrainian society and the state is an extremely relevant subject and requires appropriate research. The author aims to analyse the most resonant reform measures in the civil service, which were recently initiated by the government and received mixed reviews, in particular, the announced redundancy in the staff of civil servants and the introduction of a contract form of civil service, as well as to offer scientifically sound proposals for improvement of appropriate measures. In the work with the use of general scientific and special methods of scientific knowledge (dialectical, Aristotelian, comparative law, system analysis) the legal bases and scientific sources on redundancy of staff and contractual form of employment are considered; the provisions of the national labor legislation were compared with the provisions of the national legislation on the civil service, which provide for the rules of staffing cuts among civil servants, including guarantees of their rights upon dismissal on appropriate grounds; the provisions of the national legislation concerning the rules of application of contracts upon appointing civil servants are investigated. The conclusion is made: 1) on the need for appropriate revision of the Law of Ukraine "On Civil Service"; 2) on the expediency of creating new productive jobs in various sectors of the national economy, where redundant civil servants will be sent after retraining; 3) that any reforms of society and public administration must be carried out subsequent to an in-depth study of public opinion, analysis of possible negative consequences, development and implementation of compensatory mechanisms. It is emphasized that it is mandatory to involve scientists, experts-practitioners, employers, and representatives of public, in particular trade unions, in the process of developing reforms in civil service.*

**Keywords:** civil service, labour rights, staff, contract, position.

## **INTRODUCTION**

Qualitative functioning of the civil service is a guarantee of proper development of society and the state. The civil service must ensure effective and democratic public administration of the most important social processes for the state [1; 2]. At the same time, the orientation towards a person and a citizen, towards the quality assurance of their rights and freedoms should become decisive. A person and a citizen should not be considered as managed entities, but as clients to whom the state, represented by a state body or a civil servant, provides services [3]. The current state of political, economic, and other relations in the country requires the fastest reform of the civil service by improving the structure of public bodies, professional growth of civil servants, strengthening their motivation for productive civil service, introduction of modern standards of public service. With that, it is necessary to strictly introduce and strengthen such principles of the civil service as legality,

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transparency, professionalism, political impartiality, inevitability of punishment for corruption and other offenses [4-6].

Public authorities in Ukraine are currently taking some steps to reform the civil service. However, not all of these steps are clearly perceived by the population of Ukraine, including civil servants, in particular, this refers to the announced reduction in the number of civil servants and the use of contracts in the appointment of civil servants [7]. Thus, at the end of 2019, the Minister of the Cabinet of Ministers of Ukraine D.O. Dubilet stated: "We are cutting the staff of district state administrations (DSA) by 18,449 positions. As long as the internal communication channels do not work properly in our state bodies, I would like to address those civil servants who will be affected by such optimization. The decision on redundancy was difficult but necessary. We must significantly increase the efficiency of government agencies". According to the official, the Cabinet of Ministers of Ukraine analysed all the functions of the DSAs and counted 111 of them in 11 areas. It was decided to reduce their number [8].

The Law of Ukraine No. 117-IX "On Amendments to Certain Laws of Ukraine on Reset of Power" dated September 19, 2019<sup>1</sup> amended the Law of Ukraine "On Civil Service"<sup>2</sup>, which in particular provides for simplification of the procedure for admission to civil service and dismissal from it, increasing the responsibility of civil servants for achieving the results of their activities, and a contractual form of admission to the civil service was introduced. The latter requires special attention, as the contract is a special form of fixed-term employment contract, the specific features of which are the need for its permanent renegotiation (two months prior to the expiration of the contract, it may be extended or concluded for a new term by agreement of the parties) and the possibility of dismissal of civil servant exclusively based on the expiration of the contract. This significantly weakens the position of civil servants in civil service relations [9-11]. It should be noted that the issues of legal regulation of relations in the civil service have been studied by such researchers as: V.S. Venediktov [12], K.Yu. Melnyk [13; 14], P.D. Pylypenko [15], V.I. Prokopenko [16] and others. Despite the existence of a wide array of publications that investigate various issues of legal regulation of relations in the civil service in different historical periods, recent changes in relevant national legislation have not yet been the subject of scientific research.

In view of this, the scientific analysis of the abovementioned reform measures in the context of protection of the rights of civil servants and further functioning of state bodies currently appears to be important.

## 1. MATERIALS AND METHODS

The paper is based on the study of scientific achievements of foreign and domestic scientists and the results of research of provisions of national labour legislation and the provisions of national legislation on civil service. The study examined the work of representatives of the science of labour law, which highlights the legal nature of the

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<sup>1</sup> Law of Ukraine No. 117-IX "On Amendments to Certain Laws of Ukraine on Reset of Power" (2019, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/117-20>.

<sup>2</sup> Law of Ukraine No. 889-VIII "On Civil Service". (2015, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/889-19>.

reduction in the number of employees and the civil service contract as a kind of labour contract. The provisions of the Labour Code of Ukraine and the Laws of Ukraine No. 889-VIII “On Civil Service” dated December 10, 2015<sup>1</sup> and No. 117-IX “On Amendments to Certain Laws of Ukraine on Reset of Power” dated September 19, 2019<sup>2</sup>, were developed, which provide rules for the application of the contract upon hiring and introducing redundancy of civil servants. To achieve the purpose of the article, which is to provide scientifically sound conclusions and proposals for improving reform measures in the civil service regarding redundancy of civil servants and introduction of a contractual form of involvement in the civil service, an appropriate research algorithm was selected, inherent in the set of collected materials, conditions, and the forms of the paper.

The methodological basis of the study included general scientific and special scientific methods, the use of which is conditioned upon the purpose of the study and the need to use theoretical advances in labour and administrative law. The paper employed the dialectical method, the Aristotelian logical method, the comparative law method, and the method of system analysis. In their interaction, all the specified methods allowed to carry out a full-fledged completed legal study, each of the methods was used at a certain stage of the study, so the methodology is complex, multiple, and pluralistic. The basis of the research methodology is the dialectical method as an objectively necessary logic of the movement of cognition, which allows to consider the subject matter in its development, the interrelation arising from the material conditions of social life. This method allows to elaborate on the essence of such a complex phenomenon as civil service, including the specific features of identifying this essence in the particular historical conditions of modern Ukraine. The dialectical method allowed to investigate the issues of civil service reform in their development and interrelation and to determine the feasibility of such reform measures as reducing the staff of civil servants and the introduction of a contractual form of involvement in the civil service.

The Aristotelian method allowed to study the contract for civil service as a holistic legal phenomenon and to determine the features of concluding a contract for civil service. With the help of the Aristotelian method, the shortcomings of legislative provisions that may affect the quality of guarantees of the rights of civil servants were identified, and proposals for their elimination were provided. The use of the comparative law method allowed to determine the differences between the provisions of national labour legislation and provisions of national legislation on civil service, which provide for rules to reduce the staff of civil servants, including guarantee their rights upon dismissal on a corresponding basis.

The method of systematic analysis was used in the study of scientific positions on the nature of staff reductions and the contractual form of employment, including the relevant provisions of national legislation. System analysis convincingly proves that the modern science of administrative and labour law requires a new understanding of the place of relations of civil service in the subject of these branches of law. The solution to this issue will help resolve the extension of the general labour legislation to civil servants and

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<sup>1</sup> Law of Ukraine No. 889-VIII “On Civil Service”. (2015, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/889-19>.

<sup>2</sup> Law of Ukraine No. 117-IX “On Amendments to Some Laws of Ukraine on Restarting Power”. (2019, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/117-20>.

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bring the civil service legislation regarding the record of service in accordance with the Labour Code of Ukraine.

## 2. RESULTS AND DISCUSSION

The legal literature expresses the position that the reduction of staff should improve the operations of the institution, optimize the number of employees. Thus, A.R. Matsiuk and Z.K. Symorot points out that staff reduction is one of the measures aimed at improving the work of the enterprise, institution, organization, staffing them with the most qualified personnel [17]. According to Ye.A. Klonov, staff reduction is a reduction in the established number of employees of the enterprise or institution with a simultaneous reduction of the scope of work (or without such), which is carried out by the administration in accordance with certain procedures, and aims to improve the organization of the apparatus, rationalization of the enterprise (institution) and retention of the most skilled workers [18]. O.B. Prudyvus notes that the reduction of staff is carried out on the initiative of the owner or its authorized body; the purpose of redundancy is to improve the work of the enterprise, institution, organization and to staff it with the most qualified personnel. The redundancy entails the removal of a full-time position. If downsizing can occur without the elimination of the relevant positions, the redundancy always entails a reduction in the number of employees [19].

The above indicates that both modern government officials and scientists point to the undoubted benefits for government agencies, enterprises and organizations to apply staff redundancy. Indeed, to optimize the activities of legal entities and for their more efficient functioning in certain situations, the use of staff redundancy is appropriate. However, we should not forget about the other side of this measure, because staff redundancy leads to negative consequences for the latter, when the employee is dismissed and needs to find another job. Moreover, a situation is created when employees are "redundant" and unable to continue working in the absence of their guilt and signs of incompatibility with the position. These negative aspects of staff reductions are to some extent offset by the provisions of national labour legislation, which establish enhanced measures to protect the rights of employees in case of such dismissal. In particular, the Labour Code of Ukraine (hereinafter referred to as the Labour Code)<sup>1</sup> establishes general guarantees for all employees in this area.

We shall note that the redundancy of civil servants is based on the rules of special legislation. Thus, paragraph 1 of Part 1 of Art. 87 of the Law of Ukraine No. 889-VIII "On Civil Service" dated December 10, 2015<sup>2</sup> as a basis for termination of civil service at the initiative of the appointing entity provides for the redundancy of civil servants, displacement of a civil service job due to changes in the structure or staffing of public bodies without reduction of staff of civil servants, reorganization of the state body.

It should be noted that the latest amendments to the Law of Ukraine No. 889-VIII "On Civil Service" dated December 10, 2015 introduced by the Law of Ukraine No. 117-IX "On Amendments to Certain Laws of Ukraine on Reset of Power" dated September 19,

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<sup>1</sup> Labour Code of Ukraine. (1971). Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08>.

<sup>2</sup> Law of Ukraine No. 889-VIII "On Civil Service". (2015, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/889-19>.

2019<sup>1</sup> repealed the following rules of Part 3 of Art. 87 of the Law of Ukraine "On Civil Service"<sup>2</sup>, which should be considered as guarantees of the rights of civil servants upon redundancy: "The procedure for redundancy of civil servants based on paragraph 1 of part 1 of this article is determined by labour legislation. Redundancy based on paragraph 1 of part 1 of this article is allowed only if the civil servant cannot be transferred to another position in accordance with their qualifications or if they refuse such transfer". Furthermore, the draft Law of Ukraine No. 1066 "On Amendments to Certain Laws of Ukraine on Reset of Power" dated August 29, 2019<sup>3</sup> attempted to steamroll in Art. 5 of the Law of Ukraine "On Civil Service"<sup>4</sup> the provision that the provisions of labour legislation do not apply to civil servants, except cases directly stipulated by this Law. Such a provision, if adopted, would completely remove the possibility of applying the provisions of labour legislation on redundancy to civil servants.

We shall remind you that the labour legislation of Ukraine establishes quite significant guarantees for the rights of employees who are dismissed in such way. Thus, in accordance with Parts 1 and 2 of Art. 49-2 of the Labour Code workers shall be given personal advance notice no later than two months prior an upcoming dismissal. Upon dismissal, the pre-emptive right to retain the job, stipulated by Art. 42 of the Labour Code<sup>5</sup>, is considered. Such right is primarily granted to workers with higher qualifications and productivity. Under equal conditions of labour productivity and qualification, the advantage in job retention is given to: 1) family – in the presence of two or more dependents; 2) persons in whose family there are no other employees with independent earnings; 3) employees with long continuous work experience at the given enterprise, institution, organization; 4) employees who study in higher and secondary special educational institutions on the job; 5) participants in hostilities, victims of the Revolution of Dignity, persons with disabilities as a result of war and persons covered by the Law of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection"<sup>6</sup>, including persons rehabilitated in accordance with the Law of Ukraine "On the Rehabilitation of Victims of Repressions of the Communist Totalitarian Regime of 1917-1991"<sup>7</sup>, from among those who were subjected to repressions in the form (forms) of deprivation of liberty (imprisonment) or restriction of liberty or forced unjustified placement of a healthy person in the psychiatric facility according to the decision of a quasi-judicial body or other enforcement bodies; 6) authors of inventions, utility models, industrial designs and innovation proposals; 7) employees who received an occupational

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<sup>1</sup> Law of Ukraine No. 117-IX "On Amendments to Some Laws of Ukraine on Restarting Power". (2019, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/117-20>.

<sup>2</sup> *Ibidem*, 2019.

<sup>3</sup> Law of Ukraine No. 1066 "On Amendments to Certain Laws of Ukraine on Reset of Power". (2019, August). Retrieved from [http://search.ligazakon.ua/l\\_doc2.nsf/link1/JI00045A.html](http://search.ligazakon.ua/l_doc2.nsf/link1/JI00045A.html).

<sup>4</sup> Law of Ukraine No. 889-VIII "On Civil Service". (2015, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/889-19>.

<sup>5</sup> Labour Code of Ukraine. (1971). Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08>.

<sup>6</sup> Law of Ukraine No. 3551-XII "On the Status of War Veterans, Guarantees of Their Social Protection". (1993, November). Retrieved from <https://zakon.rada.gov.ua/laws/show/3551-12>.

<sup>7</sup> Law of Ukraine No. 962-XII "On the Rehabilitation of Victims of Repressions of the Communist Totalitarian Regime of 1917-1991". (1991, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/962-12>.

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injury or occupational disease at this enterprise, institution, organization; 8) persons deported from Ukraine, within five years from the time of return to permanent residence in Ukraine; 9) employees from among former servicemen of conscript service, military service on conscription during mobilization, for a special period, military service on conscription of officers and persons who served alternative (non-military) service – within two years from the date of their discharge from service; 10) employees who have less than three years left before the retirement age, at which the person is entitled to receive pension benefits. Preference in leaving work may be given to other categories of employees, if it is envisaged by the legislation of Ukraine.

Part 3 of Art. 49-2 of the Labour Code<sup>1</sup> stipulates that simultaneously with the notice of dismissal, the owner or its authorized body shall offer the employee another job at the same enterprise, institution, organization. In the absence of jobs in the relevant profession or specialty, as well as in case of refusal of the employee to transfer to another job at the same enterprise, institution, organization, the employee, at its discretion, seeks help from the state employment service or becomes self-employed. If the redundancy is collective, then in accordance with Art. 48 of the Law of Ukraine "On Employment of the Population"<sup>2</sup>, the owner or its authorized body shall notify the state employment service of the planned redundancy. It should be noted that today the Law of Ukraine "On Civil Service" contains rules that in some way comply with the Labour Code, which establishes guarantees of the rights of employees who are dismissed due to staff redundancy. Thus, Part 4 of Art. 87 of the Law of Ukraine "On Civil Service"<sup>3</sup> envisages that in case of dismissal from the civil service based on paragraph 1 of part 1 of this article, the civil servant shall be paid severance pay in the amount of the average monthly salary. A similar provision is contained in Art. 44 of the Labour Code<sup>4</sup>, which establishes that upon termination of the employment contract on the studied grounds, the employee shall be paid severance pay in the amount of not less than the average monthly salary.

The following provisions of the Law of Ukraine "On Civil Service"<sup>5</sup> do not contradict the provisions of the Labour Code<sup>6</sup>:

- a civil servant who was dismissed according to paragraph 1 of Part 1 of this article, if a new post is created in the state body from which they are dismissed or a vacant post corresponding to the qualification of a civil servant appears within six months from the date of dismissal by decision of the appointing entity may be appointed to an equivalent or subordinate post of civil service, if they were appointed to a position in this body according to the results of the competition (Part 3 of Article 87);

- an order (instruction) on dismissal of a civil servant in cases envisaged by Part 1 of this Article may be issued by the appointing entity or the head of the civil service during the period of temporary incapacity of the civil servant or his leave, indicating the date of

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<sup>1</sup> Labour Code of Ukraine. (1971). Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08>.

<sup>2</sup> Law of Ukraine No. 5067-VI "On Employment of the Population". (2012, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/5067-17>.

<sup>3</sup> Law of Ukraine No. 889-VIII "On Civil Service". (2015, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/889-19>.

<sup>4</sup> Labour Code of Ukraine. (1971). Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08>.

<sup>5</sup> Law of Ukraine No. 889-VIII "On Civil Service", op. cit.

<sup>6</sup> Labour Code of Ukraine, op. cit.

dismissal, which is the first working day after the day of termination of temporary incapacity for work specified in the document on temporary incapacity for work, or the first working day after the end of leave (Part 5 of Article 87).

The above analysis of the provisions of national legislation proved the selective approach of the legislator to enshrine in the Law of Ukraine "On Civil Service" the provisions of general labor legislation on guarantees of employees' rights upon dismissal in case of redundancy. This creates a situation when in one case the provisions of the Law of Ukraine "On Civil Service"<sup>1</sup> duplicate the provisions of the Labour Code, in another – do not contradict the provisions of the Labour Code, in yet another – do not envisage the provisions of the Labour Code<sup>2</sup>.

Given the negative consequences for the civil servant, which entails dismissal on redundancy, and based on the fact that the Labour Code of Ukraine stipulates a set of guarantees for the rights of employees upon dismissal on appropriate grounds, which have been tested over time, it is appropriate to extend the respective provisions of the Labour Code<sup>3</sup> to civil servants. To this end, we propose to supplement Part 3 of Art. 87 of the Law of Ukraine "On Civil Service"<sup>4</sup> with provision of the following content: "The procedure for dismissal of civil servants according to paragraph 1 of Part 1 of this article, in the part that is not regulated by this Law, shall be determined by labour legislation".

The innovation of the Law of Ukraine No. 889-VIII "On Civil Service" dated December 10, 2015<sup>5</sup>, introduced by the Law of Ukraine No. 117-IX "On Amendments to Certain Laws of Ukraine on Reset of Power" dated September 19, 2019<sup>6</sup>, is the introduction of a contract form of civil service. Thus, Part 1 of Art. 31-1 of the Law of Ukraine "On Civil Service"<sup>7</sup> provides that with a person appointed to the post of public service, a contract for civil service may be concluded in accordance with the procedure approved by the Cabinet of Ministers of Ukraine at the request of the central executive body, which provides for the formation and implements national policy in civil service. It should be noted that the contract as a basis for emergence of labour relations in Ukraine was introduced by the Law of the USSR "On Amendments to the Labour Code of the Ukrainian SSR upon the Transition of the Republic to a Market Economy" dated 20.03.1991<sup>8</sup>. As noted by P.D. Pylypenko, it was originally thought that a contract is a tried and tested option in the West for recruiting, which encourages the employee to work creatively and selflessly. With its help, the employer has the opportunity to develop a more qualified workforce capacity and get rid of lazy, dishonest employees who violate labour discipline. Thus, contracts were supposed to solve all the problems that existed at the time in socialist communal organization of labour [15]. V.S. Venediktov points out that the contract became widespread in the regulation of labour relations in the branches of the national

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<sup>1</sup> Law of Ukraine No. 889-VIII "On Civil Service". (2015, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/889-19>.

<sup>2</sup> Labour Code of Ukraine. (1971). Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08>.

<sup>3</sup> *Ibidem*, 1971.

<sup>4</sup> Law of Ukraine No. 889-VIII "On Civil Service", op. cit.

<sup>5</sup> *Ibidem*, 2015.

<sup>6</sup> Law of Ukraine No. 117-IX "On Amendments to Some Laws of Ukraine on Restarting Power". (2019, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/117-20>.

<sup>7</sup> Law of Ukraine No. 889-VIII "On Civil Service", op. cit.

<sup>8</sup> Labour Code of Ukraine, op. cit.

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economy due to the fact that it provided greater freedom in the regulation of labour relations by employers by means of appropriate consensus to establish the content of the contract, especially benefits and guarantees of social security [12]. We shall note that the contract is a fixed-term employment agreement. Nowadays, the scope of contracts, in accordance with Part 3 of Art. 21 Labour Code, is limited by the laws of Ukraine. That is, contracts can be concluded by employers only with those categories of employees that are clearly defined by law. This means that the state sets certain barriers to the application of contracts, primarily because the main employment contract in Ukraine, in accordance with Art. 23 Labour Code<sup>1</sup>, is indefinite.

The legal literature expresses a negative attitude towards the use of contracts in its modern form. Thus, K.Yu. Melnyk points out that the contract, given its fixed-term nature, does not ensure the stability of labour relations. Furthermore, this type of fixed-term employment contract does not even allow the possibility of its transformation into an employment contract for an indefinite period. "Contracts for service in law enforcement agencies reduce the protection of employees of these bodies in labour relations. This is primarily manifested in the fact that employees can be dismissed at the end of the contract without explanation. Also, the use of contracts in recruitment opens up certain opportunities for abuse by law enforcement officials", said the scientist [14]. According to S.V. Vereitin, the application of contracts is beneficial, first of all, to the employer, i.e. the management of police bodies and departments, as it allows to dismiss a police officer at the end of the contract without explanation. For the police officers, concluding contracts is unprofitable, as it weakens their position, making them to some extent a "temporary" employee [20]. V.I. Prokopenko points out that the contract significantly restricts the labour rights of workers, even without containing conditions that infringe on their rights. And if it still includes conditions when even the minimum labour guarantees are not observed by the employer, it is hardly possible to refer to the proper protection of labour rights of workers and the need for legal regulation of labour relations in general by the state. With that, there is a threat that the violation of labour rights may not be compensated by any additional benefits and advantages [16]. The Law of Ukraine "On Civil Service" sets restrictions on the use of contracts in state agencies. Thus, in accordance with Part 1 of Art. 31-1, paragraph 3 of Part 2 of Art. 34 and Part 3 of Art. 34 of the Law<sup>2</sup>, firstly, the contract may be concluded if necessary to ensure the organization and performance of tasks of a temporary nature (for civil service positions of categories "B" and "C"), secondly, the number of civil service positions in the state agency, for which a fixed-term appointment is made (including under a contract), may not exceed 7 percent of the total number of full-time civil service positions in a state agency.

The legislator does not clearly define the range of positions for which appointments can be made with the conclusion of a contract for civil service. Thus, in accordance with Part 3 of Art. 31-1 of the Law of Ukraine "On Civil Service"<sup>3</sup>, the decision to allocate a civil service position to positions for which the appointment is made with the conclusion of a contract for civil service, is made by the appointing entity or the head of the civil

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<sup>1</sup> Labour Code of Ukraine. (1971). Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08>.

<sup>2</sup> Law of Ukraine No. 889-VIII "On Civil Service". (2015, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/889-19>.

<sup>3</sup> *Ibidem*, 2015.

service before the competition. We believe that the national legislator made a better call in Art. 63 of the Law of Ukraine "On the National Police"<sup>1</sup>, which clearly defined the categories of posts for which appointment is carried out under the contract. The indicated approach, in our opinion, reduces subjectivity and corruption risks upon recruiting.

The positive thing is that the national legislator in Parts 4 and 5 of Art. 31-1 of the Law of Ukraine "On Civil Service"<sup>2</sup> stipulated the need to provide information on the essential terms and conditions of the contract in the announcement of the competition for civil service positions, appointments to which are made with the conclusion of a civil service contract, and established a list of essential contract terms and conditions. These are, firstly, the place of work and position in the civil service, secondly, special requirements for persons applying for a position in civil service, thirdly, the date of entry into force and duration of the contract, fourthly, the rights and obligations of the parties, fifthly, tasks and key indicators of effectiveness, efficiency, and quality of their implementation, deadlines for their implementation, sixthly, the regime of work and rest, seventhly, terms of remuneration, eighthly, the responsibility of the parties and dispute resolution, ninthly, the grounds for amendment, termination, and cancellation of the contract. It is impossible to fully agree with the attribution of special requirements to persons applying for a civil service position to the essential terms and conditions of the contract. Such requirements are established by special legislation and apply regardless of their inclusion or non-inclusion in the contract of civil service. It is also necessary to agree with K.Yu. Melnyk, who considers it inexpedient to include in the list of essential terms and conditions of the contract such a terminological construction as "termination and cancellation of the contract", because the term "termination of the contract" is broader than "cancellation of the contract" and includes the latter. The researcher believes that it is enough to leave along with the amendment of the contract its termination in the list of essential terms and conditions of the contract [13].

The Law of Ukraine "On Civil Service" stipulates that a contract for civil service is concluded for a period of up to three years. Therefore, the lower limit of the contract term is not established by legislation, and so contracts can be concluded for any minor period, even for one month. In our opinion, the use of such "temporary" civil servants may reduce the efficiency of state agencies, given the lack of interest of civil servants in achieving the long-term purpose of a state agency and maintaining its authority. Thus, we consider it appropriate to word Part 8 of Art. 31-1 of the Law of Ukraine "On Civil Service"<sup>3</sup> as follows: "The contract for civil service is concluded for a period of one to three years".

## CONCLUSIONS

Analysis of current issues of civil service reform provides several proposals and recommendations for improving national legislation in the field of civil service and the practice of its application, namely:

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<sup>1</sup> Law of Ukraine No. 580-VIII "On National Police". (2015, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19>.

<sup>2</sup> Law of Ukraine No. 580-VIII "On National Police", op. cit.

<sup>3</sup> Law of Ukraine No. 889-VIII "On Civil Service". (2015, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/889-19>.

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1. There is a feasibility of appropriate revision of the Law of Ukraine "On Civil Service": 1) to supplement Part 3 of Art. 87 of the Law of Ukraine "On Civil Service" with the following provision: "The procedure for dismissal of civil servants based on paragraph 1 of part 1 of this article, in the part not regulated by this Law, is determined by labour legislation"; 2) to supplement Art. 31-1 of the Law of Ukraine "On Civil Service" with an indicative list of categories of positions to which appointments may be made under a contract for civil service; 3) to word Part 8 of Art. 31-1 of the Law of Ukraine "On Civil Service" as follows: "The contract for civil service is concluded for a period of one to three years".

2. It is necessary to create new productive jobs in various sectors of the national economy prior to the planned collective redundancy of civil servants, where they will be sent after retraining.

3. Reforms of society and public administration should be carried out after a thorough study of public opinion, analysis of the possible negative consequences of these reforms, the development and implementation of compensatory mechanisms. It is also mandatory to involve scientists, practitioners, employers, and representatives of public, including trade unions, in the reform process. Especially when it is reforms that affect the rights and freedoms of citizens in the field of providing them with livelihoods.

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